Sectt. II-37—50,000—27-10-41.

Home (1942) Department.

(12)

Ms SERIES.

G.O. No. 4090.

Dated 3-11-42

[Despatch Abstract.]

Escheat - South Kanara District - Mangalore Town Casba Bazaar village - Real properties of deceased Chinnabaastha Shetty - Govt. notice - Proposals received - Draft Counter - Approved.

C. No. Department.

List of records put up

Number.	Date.	Department.	Signature of Clerk putting up the paper.	Signature of Clerk removing the paper.

11855 (o) 4
23/10

REVENUE DEPARTMENT.

Subject.

Escheat - Personal and real properties - South Kanara - Mangalore Town - Casba Bazaar village - Deceased Chennabasappa Shetty - Proposals - Recommended.

- - - -

4. The Board also recommends the Collector's request in para 10 of his letter that he may be permitted to consent to the Province of Madras being impleaded as the legal representative of the deceased Chennabasappa in other similar petitions suits or appeals in which the estate is involved.

5. The Collector's further report on the subject-matter of the suit and appeal promised in para 8 of his letter, dated 16-8-42 is awaited.

for Joint Secretary.

To the Secretary to Government, Home Department.
Copy to the Collector of Malabar.

PNK/20-10-42.

Very Urgent
Ref. A3-2464-42.

3

South Kanara Collector's
office,
Mangalore, 16th August 1942.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The secretary to the Board,
Land Revenue and Irrigation, Madras.

Sir,

ESCHEAT - Personal and real properties - Mangalore Town Casba Bazaar village - Deceased Chennabasappa Shetty - Report submitted.

In the town of Mangalore there was a wargdar, Chennabasappa Shetty by name. He possessed personal properties worth about Rs.200/- and real properties worth about Rs.75,000/-. He died ~~having predeceased him~~ issueless on 25--3--1942, a male child that had been born to him having predeceased him by about a year. His widow Gangamma, also expired on 25--5--1942. The deceased husband and wife belonged to the Lingayat Jangam Community, which is governed by the Mithakshara law of succession.

2. As enquiry showed that they were the only surviving members of the family, the Tashildar, Mangalore, took possession of the personal properties of the deceased. They were subsequently handed over to the Subordinate Judge of Mangalore, who has taken steps in his court Escheat Case No. 1 of 1942 to dispose of them in accordance with the provisions of clause 7 of Section 16 of Regulation III of 1802.

3. While the enquiry regarding the escheat of immovable properties was in progress, I received a suit notice under Section 80 of the Civil Procedure Code from Sri B.Vaikunta Baliga, B.A., B.L., Vakil, Mangalore, pruported to be on behalf of his clients, one Shivalingappa Shetty and his younger brother minor Shiva Shetty, alleging that his clients are the nearest surviving sapindas and the only heirs entitled to succeed to the properties of the deceased. The notice-giver further threatens to sue the Government, if all the properties of the deceased are not immediately handed over to his clients with all rents and other mesne profits collected by the Government from the said properties.

4. The records of enquiry in the matter contained in this office current file C.No. 2464-42 are herewith enclosed. The suit notice and other enclosures received from Sri B.Vaikunta Baliga on behalf of the alleged claimants to the properties and the Tahsildar's detailed report in the matter are at pages 39 to 104 and 223 to 226 of the file respectively.

5. No authehticated genealogical table relating to the heirs of the deceased could be secured as there is none belonging to the community of the deceased residing in Mangalore. The Tahsildar has, therefore, based his report on a will executed by the fater of the deceased last male holder in favour of his wife. A copy of this will is at pages 207 to 212 of the records of enquiry. The recitals in the will show that Lingappa Shetty, the fater of the deceased, had only two undivided brothers, Bhadraya and Basappa by name, both of whom died issueless and that there were no claimants to the properties except himself. However, subsequent to the execution of the will, Lingappa Shetty, begot two male children, namely Chennabasappa and Sangappa, and a daugther named Nagamma. The yougest son Sangappa and the daughter Nagamma having died leaving no issue, the eldest son Channabasappa Shetty became the only surviing lineal descendant. This Channabasappa Shetty and his widow ~~Gangamma~~ Gangaw having died, leaving no legal heirs, the family has become extinct, with the result that the properities left by them are liable to be escheated to Government.

6. The notice-giver has produced an unauthenticated genealogical table (page 47 cf.) purporting to show that his clients are the heirs of the deceased. He tries to establish that Lingappa Shetty's father Sangayya Shetty (No. 5 in the genealogical table) brother Sangayya Shetty are one and the same person. There is no direct evidence to prove this contention of the notice-giver. The evidence adduced by him in support of his contention is that the property which was allotted to Sangayya Shetty by the partition deed dated 27--5--1852, executed between Channappa and Sangaya, Nos. 3 and 5 respectively, in the genealogical table at page 47 cf., is the same as that in which the deceased Channabasappa Shetty lived and died. But the report of the Tahsildar shows that, according to the village accounts and the description of the property as given in the partition deed, the properties are different. The claim of the notice-giver's clients to the properties left by Channabasappa Shetty and Gangamma cannot, therefore, be easily conceded and the case appears to be a fit one for opposing the claims of the notice-giver's clients in the Civil Court.

7. I consulted the Government Pleader, Mangalore, in the matter. In his letter Ref. No.A-537/42, dated 9--8--1942, he has stated that it is plain that the properties escheat to the Crown and that the threatened suit can be resisted. A copy of the letter of the Government Pleader cited above is enclosed. Having agreed with the view of the Government Pleader, I have issued instructions to the Tahsildar to take charge of all the real properties of the deceased, to take proper care of, or lease them wherever necessary and to collect the rent both arrears and current due in respect of them as required by the instructions in para 5 of Government B.S.O. No. 197. I have also issued instructions to the Government Pleader, Mangalore, on 15--8--1942 on behalf of the Government, to watch the proceedings of the Court in Escheat Case No. 1 of 1942 relating to the personal properties of the deceased and contest the alleged claims of the notice-giver's clients as prescribed in para 1 of B.S.O. No.197. (2) I shall submit my further report regarding the escheat of the real properties in due course after publishing the gazette notice prescribed in B.S.O. 197 (5) and disposing of the claims, if any, received by me in response to the said notice. Meanwhile, I solicit the favour of Board's orders to record the said suit notice of the alleged claimants.

8. Enquiry shows that there are some civil suits pending in respect of the estate of the deceased. S.C. Suit No. 61/41 on the file of the Subordinate Court, Mangalore, and A.S. No.110/42 on the file of the District Court, Mangalore are two of them. In these two cases, I have received notices, in S.I.A. No. 42/42 and R.I.A.194/42 respectively to show cause why the Province of Madras represented by the Collector of South Kanara may not be brought on record as the legal representative of the deceased defendant and respondent respectively. The Government Pleader, Mangalore, whom I consulted on this point also, states that the Province of Madras should consent to its being impleaded as the legal representative of the deceased. Though the exact nature of the suit and the appeal are not known to me now, the Government will have virtually to set up defence in those cases when the Province of Madras is impleaded as the legal representative of the deceased. I shall ascertain and report to the Board of Revenue, in due course, the exact subject matter of the suit and the appeal; but meanwhile, I request the favour of the Board's orders whether the Province of Madras may be impleaded as the legal representative of the deceased in the said suit and appeal, and If so, the draft form of the counter contained in para 3 of the Government Pleader's letter Ref. No.A-537/42 dated 9--8--1942 may be approved.

at page 47 C.f.) and his clients' great-grand father's younger

to appear before the Court of the Subordinate Judge of Mangalore,

9. The two petitions viz., S.I.A. 42/42 and R.I.A. 194/42 referred in the previous paragraph stood posted to 15-8-1942 for filing the counter of the Government. As the Board's orders could not be obtained earlier, I have instructed the Government Pleader, Mangalore, to obtain adjournments in those cases. I, therefore, request the favour of Board's urgent orders in the matter.

10. I also request the Board to give me permission to consent to the province of Madras being impleaded as the legal representative of the deceased in other similar petitions, suits or appeals in which the estate of the deceased is involved, in order that, further correspondence in respect of similar notices from the Civil Courts, received by me in connection with other pending suits may be minimized.

Sd. xx xx
For Collector.

Enclosures:-
(1) This office current file C.No.2464/42, pages 1 to 156, 207 to 216 and 219 to 246.
(2) Copy of Government Pleader's letter Ref.No.A-537-42, dated 9-8-1942.

- - - - x - - - -

Letter from the Government Pleader and Public Prosecutor, Mangalore:-
To the Collector of S.Kanara, Mangalore. Ref.No.A-537/42, dated 9-8-42.
Escheat - Personal and Real properties - Mangalore Town - Casba Bazaar - village - Deceased Chennabasappa Shetty - Legal opinion - sought.

Your Ref: A3-2464-42 dated 3-8-1942.

I have scrutinised the documents. The notice givers' claim rests on the contention that the property allotted to their great grand father brother Sangayya is the identical property R.S.No.319 in the possession a enjoyment of the deceased which he inherited from his Grand Father Sangay ya. This is base-less in the light of the clear analysis given by the

Tahsildar...

Tahsildar in his last report. I should like to state in Parenthesis that it would be helpful if the Tahsildar could also trace up the property allotted to the notice giver's relation Sangayya in the partition deed of 8-11-1848 and show positively its present R.S. number. Anyway the notice-givers are unable to establish any relationship to the deceased, and it is well to remember the averment in the deceased's father's will that he has no relations at all. On these facts it is plain that the properties escheat to the Crown. The threatened suit may be resisted.

2. In S.I.A.No.42/42 in Sec. No.61-41 I have obtained another adjournment to 15-8-42 for counter. R.I.A. 194/42 in A.S.No.110/42, stand posted to 15-8-42 for counter. In both the Government are sought to be impleaded as legal representative of the deceased. B.S.O. 197-(5) authorises the Collector to take possession of the properties "as soon as the case comes to his notice" if the property is not in the possession of any body"; and a legal representative as defined by S.2. (11) of the Civil Procedure Code to include even an intermeddler of the estate of a deceased's person. Even though no notice has yet been published in the District Gazette and the Preliminaries prescribed in B.S.O. 197 (5) have not yet been adopted, I am of opinion that as the properties are prima facie liable to escheat the Province of Madras should also be represented in Escheat Case No.1-42 before the Sub-Judge and contest the claim of the notice-givers to the personal property.

3. The counter to be filed in this event would be merely: "On enquiry so far held the deceased is understood to have left no heirs. All his properties real and personal are therefore primafacie liable to escheat to the Crown. Pending the adoption of the necessary preliminaries to have the properties declared escheat to the Crown; the Province of Madras has no objection to be brought on record as the L.R. of the deceased".

4. If you think the orders of the Board of Revenue should be obtained before taking up this stand I could obtain a longer adjournment in these two cases. All the enclosures are returned.

/True Copy/.

Sd. xx xx
for collr.

consent to its being impleaded as legal
representatives and

1 /2252 29/10 G.

Revenue Department.

Subject:

ESCHEAT: Personal and real properties - South Kanara - Mangalore Town - Casba bazaar village - Deceased Ghennabasappa Shetty - Proposals for escheat.

- -

Ref.No.1.2056/42-4

Station: Salem, Dated the 26th October, 1942.

From

R.Galletti, Esq., I.C.S.,
Joint Secretary, Board of Revenue.

...

F.W.Stewart, Esq., C.I.E., M.C., I.C.S.,
Commissioner of Land Revenue.

R e a d:

p8 infra — Lett ER from M.Karamatullah, Esq., I.C.S., Collector of South Kanara, Ref.C.No.A3-2464-42 dated 17.10.1942.

REFERENCE:

x -- x x

3. A copy of letter from the Collector of South Kanara C.No.A-3 2464/42 dated 17.10.1942 is submitted to the Government in continuation of the Board's reference No.1. 2056/42-3 dated 20.10.42. The Board

requests that orders may be communicated to the Collector before 5.11.42.

for Joint Secretary.

To the Collector of South Kanara.
Copy to the Secretary to Government, Home Department para 3 only.

S.M.R.26.10

Copy of letter from M.Karamatullah, Esq., I.C.S., Collector of South Kanara, Ref.C.No.A3-2464-42 dated 17.10.1942.

Escheat- Personal and Real properties - Mangalore Town - Casba Bazar village - Deceased Channabasappa Shetty - Further report - Submitted.

Ref: Board's Ref.I.2056-42-2 dated 12.9.1942.

Of the cases referred to in the Board's Reference cited above, E.C.1/42 and S.I.A.42/42 in S.C.61/41 on the file of the Sub Court, Mangalore stand posted to 5.11.42 and R.I.A.No.194/42 in A.S.No.110/42 on the file of the Dt.Court to 11.12.42. I request that the Board's Orders on my report Ref.C.No.A3-2464-42 dated 16.8.42 may be communicated to me sufficiently before 5.11.42.

C.F. 16

9

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Escheat - South Kanara Dt - Mangalore Town - Casba Bardaar village - Real properties of deceased Chennabasappa Shetty - Suit notice - Proposal to record ~~Appeal~~ - Draft counter - Approved

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

No. _____ From the Bd of Revenue Rly No. I. 2056/42-3 dated 20. X. 1942

& " _____ " _____ " _____ " 26. X. 1942

" _____ " _____ " _____ " _____ 19____

~~Resolution~~ Order Ms. No. 4090, dated 3. 11. 1942

The Govt approve of the Board's recommendations (1) that the suit notice received by the Collector of South Kanara in respect of the real properties of the deceased of Chennabasappa Shetty, Casba Bardaar village, Mangalore Town, South Kanara Dt. from Sri B. Vaikuntha Baliga, Vakil Mangalore, on behalf ~~on behalf~~ of Shivalingappa Shetty and his younger brother minor Shiva Shetty, may be received and (2) that the Collector may be permitted to agree to the prayer of Exhibit as being impleaded as the legal representative of the deceased Chennabasappa Shetty in the suit and appeal referred to in para 8 of the Collector's letter to the Board of Revenue Ref- A3-2464-42 dt

2 10

16-8-42 and other similar petitions, suits or appeals in which the estate of the deceased is involved.

2 The draft form of the order contained in para 3 of the Govt. Pleader's letter now to the Collector of South Kanara Ref A-537/42 dt 9-8-42 is approved.

3. The Board of Revenue is requested to submit in due course the further report referred to in para 5 of the first referenced / read above.

Govt
3.11

To the Board of Revenue
& Collector of S. Kanara
& Finance dept

Call Book: Para
15-12-42

Telegram:-

[The] Collector Mangalore to the Board

your letter / Ref: A-3-24641-42 dt 16-8-42.

Properties of deceased Chennabasappa Shetty.

Proposals in paras 7, 8 and 10 approved.

Order follows.

Madras Home.

A.C. to Govt

Govt
3.11

Govt
4/11/42

Govt
3/11/42

Govt
3/11/42

Govt
4/11/42

Govt
3/11/42

ASSISTANT SECRETARY TO GOVERNMENT
5 - NOV 1942
HOME DEPARTMENT

Govt
4/11/42

Govt
3/11/42

Govt
3/11/42

Govt
4/11/42

Govt
3/11/42

Govt
4/11/42

Govt
3/11/42

Govt
4

11

GOVERNMENT OF MADRAS

Received.....1942 Registered.....1942

Abstract

Escheat - South Kanara District - Mangalore Town - Casba Bazaar village - Real properties of deceased Chennabasappa Shetty - Suit notice - Proposal to record - Draft counter - Approved.

HOME DEPARTMENT

C.O.Ms.No.4090 dated 3rd November 1942.

Read:-

From the Board of Revenue Ref.No.I.2056/42-3 dated 20th October 1942

From the Board of Revenue Ref.No. " dated 26th October 1942.

Order:

The Government approve of the Board's recommendations (1) that the suit notice received by the Collector of South Kanara in respect of the real properties of the deceased Chennabasappa Shetty, Casba Bazaar village, Mangalore Town, South Kanara district from Sri B. Vaikunta Baliga, Vakil Mangalore, on behalf of Shivalingappa Shetty and his younger brother minor Shiva Shetty, may be recorded and (2) that the Collector may be permitted to agree to the Province of Madras being impleaded as the legal representative of the deceased Chennabasappa Shetty in the suit and appeal referred to in paragraph 8 of the Collector's letter to the Board of Revenue Ref: A3-2464-42 dated 16th August 1942 and in other similar petitions, suits or appeals in which the estate of the deceased is involved.

2. The draft form of the counter contained in paragraph 3 of the Government Pleader's letter to the Collector of South Kanara Ref.A-537/42 dated 9th August 1942 is approved.

3. The Board of Revenue is requested to submit in due course the further report referred to in paragraph 5 of its reference first read above.

(By Order of His Excellency the Governor)

C.T. Mudaliyar,
Joint Secretary to Government.

To The Board of Revenue
" Collector of South Kanara
" Finance Department.

Forwarded/By Order

Superintendent.

sv.

Escheat - South Kanara Dt - Mangalore Town - Personal and real properties - Deceased Channabasappa Shetty -

pp 1-2 ef — From the Bd of Revenue, Ref: I. 2066/42-3 dt 20.10.42
" " dt 26.X.42.

Please see the letter from the Collector of South Kanara on pp 3-5 ef and the Board's reference on pp 1-2 ef and pp 7-8 ef.

Para 2 of the collector's letter. No action is called for.

Paras 3-10.

The following recommendations of the Board of Revenue in respect of the real properties of the deceased Channabasappa Shetty may be approved.

(1) The suit notice referred to in para 7 of the collector's letter may be recorded

(2) The Collector may be permitted to agree to the Province of Madras being impleaded as the legal representative of the deceased in the suit and appeal referred to in para 8 of the collector's letter and in similar petitions or suits or appeals in which the estate of the deceased is involved.

(3) The draft form of the counter referred to in para 3 of the Govt. Pleader's letter on pp 5-6 ef may be approved.

2 A draft order is submitted. To avoid delay a draft telegram is also submitted. (C)
Please see X on p 8. ig

31/X/42 3 Para 5, p.24 the Board will presumably submit a report in due course.
1/11
6/11/42

4 Finance may see this despatch. (C)

HOME DEPT. 2-NOV 1942 UNDER SECRETARY TO GOVERNMENT

Home U.O. 11855 (C)

SECRETARY TO GOVERNMENT 2 = NOV 1942 FINANCE DEPARTMENT

Fin. No. 32279 Accts-I 2.11.42

MV 1/11/42

(C) 4/11/42

Fin

Fin (Accts)

The draft order may be accepted on Finance

Dy 2/11/42

UG 2.11.42

S Dwd 2.11.42

Home

K

Draft may issue

(C) 3/11/42